



*Nez Perce*

**TRIBAL EXECUTIVE COMMITTEE**

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June 23, 2015

**RECEIVED ON:**

**JUN 29 2015**

EPA Region 10  
Office of the Regional Administrator

Mr. Dennis McLerran  
Regional Administrator  
U.S. EPA, Region 10  
1200 Sixth Ave., Suite 900  
Seattle, WA 98101-3140

RE: Nez Perce Tribal Consultation on Conceptual Remedy for Portland Harbor Superfund Site

Dear Mr. McLerran:

Thank you for your letter inviting the Nez Perce Tribe to schedule government-to-government consultation regarding the cleanup plan for Portland Harbor. The Nez Perce Tribe appreciates this period of EPA government-to-government consultation. The Nez Perce Tribe also appreciates the offer of an update on the status and progress of the cleanup by EPA.

At a meeting at the Oregon Operations Office of the U.S. Environmental Protection Agency (EPA) on April 21, 2015, representatives of the Nez Perce Tribe learned that EPA plans to deliver their Conceptual Remedy for remedial action at the Portland Harbor Superfund Site to the six participating Tribal governments and the State of Oregon in September of this year. We understand that the EPA plans to engage in government-to-government consultation with the participating governments on the Conceptual Remedy following a meeting of the National Remedy Review Board in Portland in November 2015, and through March 2016.

However, Tribal representatives were surprised to learn that (1) EPA may request Tribal Councils or leaders to travel to Portland for the consultation meetings and (2) EPA is not expecting the EPA Administrator to be present. This deviates from Tribal consultation principles, protocols, and expectations of the Tribe.

Tribal consultation consists of a meaningful, ongoing dialogue between sovereigns at the highest levels of decision-making. Federally recognized Tribes are sovereign nations. Consultation between federal agencies and Tribes is governed by treaty rights, the federal trust responsibility, and other requirements explicit in federal law.



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The Nez Perce Tribe expects the following as part of Tribal government-to-government consultation with EPA:

- Consultation meetings will occur in-person at each Tribe's reservation or another place designated by the Tribe;
- Tribal Council, the highest level of leadership in the Tribe, will be present, and it is expected that the highest level leadership in EPA (i.e., the EPA Administrator) will be present as well;
- Both parties (EPA and the Tribe) will be open and candid yet respectful in their communication with each other, both parties will listen as well as speak; and,
- The government-to-government consultation meetings will initiate or continue consultation on the Conceptual Remedy at Portland Harbor, but will not conclude that consultation. True consultation continues for the life of the project or process.

The Tribes understand that scheduling the EPA Administrator for six separate visits to Tribal reservations in Idaho, Oregon, and Washington within a four-month period may prove difficult. However, the difficulty in arranging and scheduling travel for six entire Tribal Councils and relevant Tribal staff and contractors would be an undue burden on Tribes with limited leadership availability and travel budget. At minimum the Nez Perce Tribe would like to have a meeting or phone conference with the appropriate EPA staff to explore solutions that will meet the Tribes' expectations while keeping logistical demands as minimal as possible.

The Nez Perce Tribe's Portland Harbor representative Courtney Johnson will contact Debbie Robinson to schedule this meeting or phone conference. Thank you for this opportunity.

Sincerely,

  
Anthony D. Johnson  
Chairman

cc: Gina McCarthy, EPA Administrator  
Debbie Robinson, Portland Harbor Project Coordinator  
Jim Woods, Senior Tribal Policy Advisor  
Cami Grandinetti, EPA Cleanup Unit Manager  
Kristine Koch, Portland Harbor Project Manager